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6 Attorneys for Plaintiff
HUBB SYSTEMS, LLC
7

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO

10 HUBB SYSTEMS, LLC,

11 Plaintiff,

12 vs.

13 MICRODATA GIS, INC.,

14 Defendant.
15

Case No.: C07-02677 BZ

**DECLARATION OF DAWN NEWTON
IN OPPOSITION TO DEFENDANT'S
MOTION TO DISMISS**

Date: August 1, 2007

Time: 10:00 am

Courtroom G

Magistrate Judge Bernard Zimmerman

16 I, DAWN NEWTON, declare as follows:
17

18 1. I am an attorney with the law firm Fitzgerald Abbott & Beardsley LLP, attorneys
19 for Plaintiff HUBB SYSTEMS, LLC ("Plaintiff") in the above captioned matter. I submit this
20 declaration in support of Plaintiff's motion for a preliminary injunction. I have personal
21 knowledge of the matters set forth herein, unless otherwise stated on information and belief, and
22 if called as a witness, I could and would competently testify thereto.

23 2. Defendant microDATA GIS, Inc. ("Defendant") utilizes a URL
24 ("www.microDATA911.com") that incorporates the term "DATA911" which is a federally
25 registered and incontestable trademark owned by Plaintiff.

26 3. On July 5, 2007, I conducted an internet search using the web address
27 "www.microDATA911.com." A review of Defendant's "www.microDATA911.com" website
28 reveals that Defendant openly uses "microDATA911" on its website to promote its goods and

1 services. The "microDATA911" mark used by Defendant, as reflected on its website,
2 establishes that Defendant intentionally capitalizes the "DATA911" portion of its
3 "microDATA911" mark to ostensibly emphasize the similarities to Plaintiff's federal trademark.
4 (See Exhibits A and B.)

5 4. Through Defendant's "www.microdata911.com" website, I navigated to the
6 website's News/Events section and then clicked on Trade Shows. According to Defendant's
7 own website, between June and October 2007 it plans to attend a total of 11 conferences,
8 including a five day conference in San Diego, California that ran from June 18th to June 22nd.
9 Defendant invites website browsers to "Visit us at these 2007 Trade Shows." A true and correct
10 copy of the list of trade shows that was displayed is attached hereto as Exhibit A.

11 5. I also navigated to the website's Press Releases section under News/Events. The
12 most recent press release listed is one which notes that Defendant recently sent two employees
13 to Palm Spring, California to accept a Partner of the Year award as "microDATA 911." The
14 press release also advertises Defendant's attendance at a California trade show, saying, "Check
15 out microDATA 911 at booth \$1531 June 18 - 22 at the ESRI International User Conference in
16 San Diego, CA." A true and correct copy of this press release is attached hereto as Exhibit B.

17 6. Defendant's other press releases establish that one of the two people it sent to
18 Palm Springs to accept the award, Christine McMullen, is its Vice President of Business
19 Development. A true and correct copy of another press release which refers to Ms. McMullen
20 as the VP of Business Development is attached hereto as Exhibit C.

21 I declare under penalty of perjury as set forth under the laws of the State of California
22 that the foregoing is true and correct and that this declaration was executed on July 6, 2007, in
23 Oakland, California.

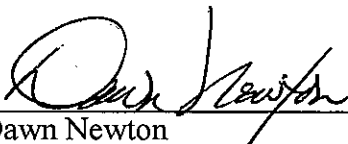
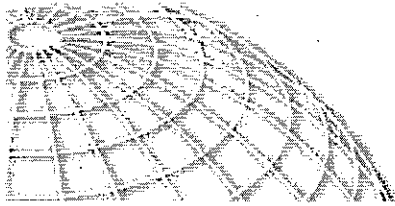
24 
25 Dawn Newton

EXHIBIT A



microDATA

*microDATA has si
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will be vi*

[Home](#) [Solutions](#) [Products](#) [Services](#) [Customer Care](#) [Business Partners](#) [News/Events](#) [Info Requ](#)

NEWS/EVENTS

[Trade Shows](#)

[Press Releases](#)

[Technology
Seminar](#)

[eNewsletters](#)

Trade Shows

Visit us at these 2007 Trade Shows:

ESRI International User Conference
June 18 - 22
San Diego, CA.
Booth Number: 1531

Washington State APCO Conference
June 27 - 29
Wenatchee, WA
Booth Number: 48

**APCO International Conference and
Exposition**
August 5 - 9
Baltimore, MD
Booth Number: 2107

Kentucky Emergency Services Conference
September 4 - 6
Owensboro, KY

**Tennessee Emergency Number Association
Annual Conference**
September 9 - 12
Gatlinburg, TN

**Oregon APCO/NENA Annu
Show**
September 11
Welches, OR

Pennsylvania NENA Conf
September 12 - 14
State College, PA

Georgia NENA Fall Confer
October 8 - 12
Athens, GA

Presentations

Alabama NENA Gulf Coas
October 14 - 17
Orange Beach, AL

South Carolina NENA/APC
October 25 - 27
Myrtle Beach, SC

APCO Atlantic Chapter Co
October 29 - 31
Hartford, CT

[About microDATA](#)

[Legal Terms](#)

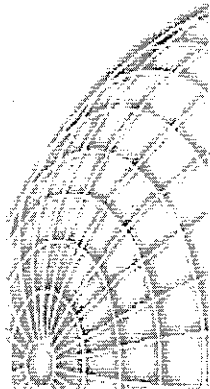
[Careers](#)

[Contact Us](#)

microDATA 911 1016 U.S. Route 5 St. Johnsbury, VT 05819 800.722.6663 802.748.5503 802.748.5447 fax sales@

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EXHIBIT B



microDATA

Together, we're changing
the world of 911

Home Solutions Products Services Customer Care Business Partners News/Events Info Request Careers

Press Releases

Trade Shows
Technology
Seminar
eNewsletters

microDATA 911 ESRI Partner of the Year

Press Releases

ESRI Partner of Year

Vermont goes IP

Holly Stone

Sam Bard

Nate Wilcox

Martinsville-Henry,
VA

Pictometry

April 23, 2007

St. Johnsbury, VT — The ESRI Boston regional office recently named microDATA 911 Partner of the Year at their National Business Partner Conference in Palm Springs, California. ESRI praised microDATA 911 founder, Bruce Heinrich, for his early acknowledgement that GIS applications would have a powerful impact on locating a 9-1-1 caller and saving lives and property. "microDATA 911 has been changing the world of 9-1-1 by specializing in GIS-based E9-1-1 software and data development. They [have] steadily built a commitment to ESRI technology with an integrated suite of products called 'The X-Solution' that are fully integrated with the ArcGIS architecture. We appreciate the continued long-term contributions to our business partner relationship," stated ESRI's Dawn Caravallo.

Check out microDATA 911 at booth #1531 June 18 - 22 at the ESRI International User Conference in San Diego, CA.

[Link to ESRI website](#)



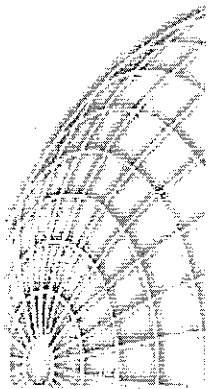
On behalf of microDATA 911, Allison Cassavechia and Christine McMullen accept the ESRI Partner of the Year award at the ESRI Worldwide Business Partner Conference in Palm Springs, CA.

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EXHIBIT C



microDATA

Together, we're changing
the world of 911

Home Solutions Products Services Customer Care Business Partners News/Events Info Request Careers

Press Releases

Trade Shows

Technology
Seminar

eNewsletters

Press Releases

ESRI Partner of Year

Vermont goes IP

Holly Stone

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Nate Wilcox

Martinsville-Henry,
VA

Pictometry

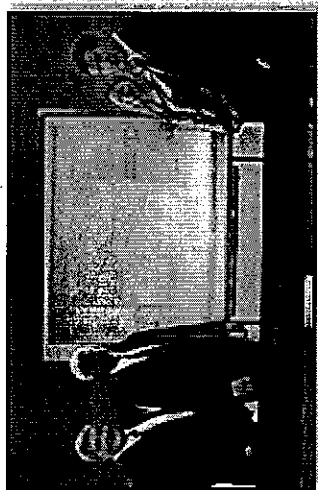
Vermont Deploys the First Statewide IP-based 9-1-1 System

March 20, 2007

St. Johnsbury, VT — In early February, 2007 microDATA 911 and Vermont became the first to implement a state-wide, NG 9-1-1 system. In the words of David Serra, Executive Director of Vermont's E911 Board, "We never intended to make history. Circumstances and events forced Vermont to be first. Now, by virtue of being on a platform based on internet protocol, we can more easily take advantage of innovations in information technology that will greatly assist emergency responders in critical situations."

microDATA's VP of Business Development, Christine McMullen, spearheaded the deployment of the solution which connects and services the 10 PSAPs in the state. "Packetizing data is something we have been working with for over a decade," says McMullen, "but now we have had the opportunity to bring all our experience and technical expertise together; our work with the Vermont 9-1-1 team heralds the next stage in building out an NG 9-1-1 system to other states, counties and PSAPs across the nation."

Many aspects of the new Vermont system signify a paradigm shift in a fairly static industry. Not only is it capable of providing redundancy built on an extremely robust IP network but is



comprised of common off the shelf equipment. The ease of installation and maintainability sets the bar for 9-1-1 services moving forward. "This robust system is capable of handling today's 9-1-1 challenges and enables Vermont to support emerging technologies," stated McMullen.

"We are very pleased that we could team with microDATA 911 to provide the public with the first statewide, IP-based 9-1-1 system in the nation," states Serra.

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